S.B. CIVIL WRIT PETITION NO.115/2005 DR(J)

Member Singh vs. Debt Relief Court & anr.

Date : 18.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Pankaj Gupta, for the petitioner.

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The filing of typed copy of the decree dated 5.5.2003 is dispensed with.

Heard learned counsel for the petitioner on merits.

Learned counsel for the petitioner submits that the petitioner is resident of Tehsil Abohar of District Ferozpur in Punjab and hence, he could not have been proceeded in the Court at Rajasthan under the provisions of Rajasthan Relief of Agriculture Indebtedness Act (Debt Relief Act), 1957 (for short the “Act”).

It appears from the facts of the case that proceedings were initiated against the petitioner and summons were issued to the petitioner at the address in District Sri Ganganagar. The petitioner did not accept the notice, therefore, the trial court proceeded ex-parte against the petitioner and ultimately, passed a decree against the petitioner. The petitioner preferred revision petition before the

District Judge, Sri Ganganagar and in that revision petition, the petitioner submitted that the petitioner is having only 13 bighas of irrigated land and 8 persons are dependent upon him but the trial court did not take into account these facts and passed the decree for payment of the decreetal amount though in instalments but with higher instalments. The petitioner also raised objections about the credibility of pronote and receipt in the revision petition. However, that revision was rejected by the revisional court. The revisional court observed that the petitioner did not raise any objection about the non-service of the summons in the revision petition and the arguments raised during the course of hearing about default in service of notice cannot be accepted.

It appears from the order impugned that it was never the case of the petitioner that he is resident of Punjab and the trial court could not have proceeded against the petitioner despite it had no territorial jurisdiction. Apart from it, the objection about territorial jurisdiction cannot be permitted to be raised for the first time in writ petition.

In view of the above, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya